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ROBERT D. FISH  
RUTAN & TUCKER LLP  
611 ANTON BLVD 14TH FLOOR  
COSTA MESA, CA 92626-1931

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OFFICE OF PETITIONS

In re Patent of :  
Bedekar et al. :  
Patent No. 6,956,142 :  
Issue Date: October 18, 2005 :  
Application No. 10/739,756 :  
Filing Date: December 17, 2003 :  
Attorney Docket No. 101090.0003US :

Decision on Petition

This is a decision on the petition under 37 C.F.R. § 1.183, filed January 30, 2006, to waive the rules and accept the correction of the assignee data on the front page of the above-identified patent. The petition is also being treated as a request under 37 CFR 3.81 to accept the correction of the assignee data.

The petition under 37 CFR 1.183 is **dismissed as moot**.

The request under 37 CFR 3.81 is **dismissed**.

Effective June 25, 2004, the practice relating to issuance of a patent to an assignee was modified by requiring that, after payment of an issue fee, a request for a certificate of correction must be filed in order to obtain issuance of the patent to an assignee. Thus, where the assignment data is submitted after payment of the issue fee, the patent document will not include the assignment information. Therefore, as 37 CFR 3.81(b) was modified to provide for issuance of the patent to the assignee, the practice of waiving the rule (37 CFR 3.81(a)) under 37 CFR 1.183 is longer necessary and has been eliminated.

37 CFR 3.81(b), as modified, reads:

Any request for issuance of an application in the name of the assignee submitted after the date of payment of the issue fee, and any request for a patent to be corrected to state the name of the assignee, must state that the assignment was submitted for recordation as set forth in § 3.11 before issuance of the patent, and must include a request for a certificate of correction under § 1.323 of this chapter (accompanied by the fee set forth in § 1.20(a)) and the processing fee set forth in § 1.17(i) of this chapter.

In other words, the request under 37 CFR 3.81(b) will be granted when:

- (1) a request under 37 CFR 3.81 and the fee set forth in 37 CFR 1.17(i) are filed,
- (2) the assignment was submitted for recordation prior to issuance of the patent, and
- (3) a request for a certificate of correction and the fee set forth in 37 CFR 1.20(a) are submitted.

Petitioner has failed to meet requirement (2) above. Petitioner seeks to add the following assignee to the face of the patent: Council of Scientific and Industrial Research. However, an

assignment to the Council of Scientific and Industrial Research was not recorded until January 24, 2006. The patent issued October 18, 2005. Therefore, an assignment to the assignee was not recorded prior to the issuance of the patent.

The fee for a petition under 37 CFR 1.183 is \$400. Petitioner submitted \$400 for the petition. However, the petition under 37 CFR 1.183 is dismissed as moot and the petition is being granted under 37 CFR 3.81(b). The fee for a petition under 37 CFR 3.81(b) is \$130. Therefore, \$270 has been credited to petitioner's deposit account.

Any request for reconsideration must be submitted within TWO (2) MONTHS from the mail date of this decision. No further petition fee is required for the request. Extensions of time under 37 CFR 1.136(a) are NOT permitted. The reconsideration request should include a cover letter entitled "Renewed Petition under 37 CFR 3.81(b)."

Further correspondence with respect to this matter should be addressed as follows:

By mail:        Mail Stop Petition  
                  Commissioner for Patents  
                  P.O. Box 1450  
                  Alexandria, VA 22313-1450

By facsimile: (571) 273-8300  
                  Attn: Office of Petitions

By hand:        U.S. Patent and Trademark Office  
                  Customer Service Window  
                  Randolph Building  
                  401 Dulany Street  
                  Alexandria, VA 22314

Telephone inquiries regarding this communication should be directed to Petitions Attorney Steven Brantley at (571) 272-3203.



Charles Steven Brantley  
Senior Petitions Attorney  
Office of Petitions